

application is denied, the reasons therefor. No appeal shall lie from denial of an application.

[29 F.R. 12584, Sept. 4, 1964, and 29 F.R. 13242; Sept. 24, 1964, as amended at 30 F.R. 14776, Nov. 30, 1965; 30 F.R. 15796, Dec. 22, 1965; 31 F.R. 5118, Mar. 30, 1966; 31 F.R. 11714, Sept. 7, 1966; 31 F.R. 13114, Oct. 11, 1966]

#### § 212.8 Certification requirement of section 212(a)(14).

(a) *General.* The requirement contained in section 212(a)(14) of the Act for a certification by the Secretary of Labor shall not be applicable to an applicant for admission to the United States or to an applicant for adjustment of status under section 245 of the Act who establishes that he will not perform skilled or unskilled labor.

(b) *Aliens not required to obtain labor certifications.* The following persons are not considered to be within the purview of section 212(a)(14) of the Act and do not require a labor certification: (1) A member of the Armed Forces of the United States; (2) a spouse or child accompanying or following to join his spouse or parent who either has a labor certification or is a nondependent alien who does not require such a certification; (3) a female alien who intends to marry a citizen or alien lawful permanent resident of the United States, who establishes satisfactorily that she does not intend to seek employment in the United States and whose finance has guaranteed her support; (4) an alien who will engage in a commercial or agricultural enterprise in which he had invested or is actively in the process of investing a substantial amount of capital; (5) an alien who establishes satisfactorily that he has been accepted by an institution of learning in the United States for a full course of study for at least 2 full academic years, and that he has sufficient financial resources to support himself and any dependent members of his household and will not seek employment during that period.

[31 F.R. 10021, July 23, 1966; 31 F.R. 10355, Aug. 2, 1966]

### PART 213—ADMISSION OF ALIENS ON GIVING BOND OR CASH DEPOSIT

#### § 213.1 Admission under bond or cash deposit.

The district director having jurisdiction over the intended place of residence of an alien may accept a public charge

bond prior to the issuance of an immigrant visa to the alien upon receipt of a request directly from a United States consular officer or upon presentation by an interested person of a notification from the consular officer requiring such a bond. The district director having jurisdiction over the place where the examination for admission is being conducted or the special inquiry officer to whom the case is referred may exercise the authority contained in section 213 of the Act. All bonds and agreements covering cash deposits given as a condition of admission of an alien under section 213 of the Act shall be executed on Form I-352 and shall be in the sum of not less than \$1,000. The officer accepting such deposit shall give his receipt therefor on Form I-305. For procedures relating to cancellation or breaching of bonds, see Part 103 of this chapter.

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103) [29 F.R. 10579, July 30, 1964, as amended at 31 F.R. 11714, Sept. 7, 1966]

### PART 214—NONIMMIGRANT CLASSES

Sec.

- 214.1 Requirements for admission, extension and maintenance of status.
- 214.2 Special requirements for admission, extension, and maintenance of status.
- 214.3 Petitions for approval of schools.

**AUTHORITY:** The provisions of this Part 214 issued under secs. 101, 103, 212, 214, 66 Stat. 166, 173, 182, as amended, 189; 8 U.S.C. 1101, 1103, 1182, 1184.

#### § 214.1 Requirements for admission, extension, and maintenance of status.

(a) *General.* Every nonimmigrant alien applicant for admission or extension of stay in the United States shall establish that he is admissible to the United States or that a ground of inadmissibility has been waived under section 212(d)(3) of the Act; present a passport, valid for the period set forth in section 212(a)(26) of the Act, except as otherwise provided in this chapter, and, upon admission, a valid visa, except when either or both documents have been waived; agree that he will abide by all the terms and conditions of his admission or extension, and that he will depart at the expiration of the period of his admission or extension or on abandonment of his authorized nonimmigrant status; and post a bond on Form I-352 in the sum of not less than \$500 if required by the

district director, special inquiry officer, or the Board of Immigration Appeals at the time of admission or extension, to insure the maintenance of the alien's nonimmigrant status and his departure from the United States. A nonimmigrant other than one in the classes defined in section 101(a)(15)(A) (i) or (ii) or (G) (i), (ii), (iii), or (iv) of the Act (members of which classes are not required to obtain extensions of stay if they continue to be so recognized by the Secretary of State as members of such classes); section 101(a)(15) (C) or (D) of the Act (members of which classes are ineligible for extensions of stay), or section 101(a)(15)(J) of the Act, and whose period of admission has not expired, shall apply on Form I-539 and may be granted or denied, without appeal, an extension of his period of temporary admission by an officer in charge of a sub-office or a district director. A separate application must be executed and submitted for each alien seeking an extension of the period of temporary admission even though part of a single family unit, except that children under the age of 14, regardless of whether they accompanied a parent to the United States, and regardless of whether included in the passport of the parent, may be included in the application of the parent without any additional fee and may be granted the same extension as the parent. For procedures relating to cancellation or breaching of bonds, see Part 103 of this chapter.

(b) *Termination of status.* Within the period of initial admission or extension of stay, the nonimmigrant status of an alien shall be terminated by the revocation of a waiver previously authorized in his behalf under section 212(d) (3) or (4) of the Act or by the revocation and invalidation of his visa pursuant to section 221(i) of the Act.

[25 F.R. 12067, Dec. 16, 1961, and 30 F.R. 1031, Feb. 2, 1965, as amended at 31 F.R. 11714, Sept. 7, 1966]

#### § 214.2 Special requirements for admission, extension, and maintenance of status.

The general requirements in § 214.1 are modified for the following nonimmigrant classes:

(a) *Foreign government officials.* The determination by a consular officer prior to admission and the recognition by the Secretary of State subsequent to admission shall prima facie establish the

classification of a nonimmigrant defined in section 101(a)(15) (A) of the Act. An alien who has a nonimmigrant status under section 101(a)(15) (A) (i) or (ii) of the Act shall be admitted for the duration of the period for which he continues to be recognized by the Secretary of State as being entitled to such status. An alien who has a nonimmigrant status under section 101(a)(15) (A) (iii) of the Act shall be admitted for an initial period not exceeding one year, and may be granted extensions of temporary stay in increments of not more than one year. An application for extension of temporary stay by an alien who has a nonimmigrant status under section 101(a)(15) (A) (iii) shall be accompanied by a written statement from the official by whom the applicant is employed describing the current and intended employment of the applicant.

(b) *Visitors.* The classification of visitors in the Act has been subdivided for visa, admission, and extension purposes into visitors for business (B-1) and visitors for pleasure (B-2). A B-1 or B-2 visitor may be admitted for an initial period of not more than six months and may be granted extensions of temporary stay in increments of not more than six months, except that the B-2 spouse or child of an alien who has a status under section 101(a)(15) (H) of the Act may be admitted for an initial period of not more than one year and may be granted extensions of temporary stay in increments of not more than one year.

(c) *Transits—(1) Without visas.* Any alien may apply for immediate and continuous transit without a visa through the United States, except a citizen of the Union of Soviet Socialist Republics, Estonia, Latvia, Lithuania, Poland, Czechoslovakia, Hungary, Rumania, Bulgaria, Albania, Cuba, Communist-controlled China ("Chinese People's Republic"), North Korea ("Democratic People's Republic of Korea"), the Soviet Zone of Germany ("German Democratic Republic"), North Viet-Nam ("Democratic Republic of Viet-Nam"), and Outer Mongolia ("Mongolian People's Republic"), resident in one of the countries named. Such an alien must establish that he is admissible under the immigration laws; that he has confirmed and onward reservations to at least the next country beyond the United States (except that, if seeking to join a

vessel in the United States as a Crewman, he is in possession of or makes application upon arrival for, a Form I-184 permanent type landing permit and identification card, and upon joining the vessel will remain aboard at all times until it departs from the United States; that his departure from the United States will be accomplished within 5 calendar days after his arrival, and that he has a document establishing his ability to enter some country other than the United States. Except for transit from one part of foreign contiguous territory to another part of the same territory, application for direct transit without a visa must be made at one of the following ports of entry: Buffalo, N.Y.; Rouses Point, N.Y.; Boston, Mass.; New York, N.Y.; Norfolk, Va.; Baltimore, Md.; Philadelphia, Pa.; Washington, D.C.; Miami, Fla.; Port Everglades, Fla.; Tampa, Fla.; New Orleans, La.; San Antonio, Tex.; Dallas, Tex.; Houston, Tex.; Brownsville, Tex.; San Diego, Calif.; Los Angeles, Calif.; San Francisco, Calif.; Honolulu, Hawaii; Seattle, Wash.; Portland, Oreg.; St. Paul, Minn.; Chicago, Ill.; Detroit, Mich.; Anchorage, Alaska; Fairbanks, Alaska; San Juan, P.R.; Charlotte Amalie, V.I.; Christiansted, V.I.; Agana, Guani. The privilege of transit without a visa may be authorized only under the conditions that the alien will depart voluntarily from the United States, that he will not apply for adjustment of status under section 245 of the Act, and that at all times he is not aboard an aircraft which is in flight through the United States he shall be in the custody directed by the district director, provided that if admissibility is established only after exercise of the discretion contained in section 212(d)(3)(B) of the Act the alien shall be in the custody of the Service at carrier expense and must depart on the earliest and most direct foreign-destined plane or vessel.

(2) *United Nations Headquarters District.* An alien of the class defined in section 101(a)(15)(C) of the Act, whose visa is limited to transit to and from the United Nations Headquarters District, if otherwise admissible, shall be admitted on the additional conditions that he proceeds directly to the immediate vicinity of the United Nations Headquarters District, and remains there continuously, departing therefrom only if required in connection with his departure from the United States, and that he has a docu-

ment establishing his ability to enter some country other than the United States following his sojourn in the United Nations Headquarters District. The immediate vicinity of the United Nations Headquarters District is that area lying within a twenty-five mile radius of Columbus Circle, New York City, New York.

(3) *Others.* The period of admission of an alien admitted under section 101(a)(15)(C) of the Act shall not exceed 29 days.

(d) *Crewmen.* The provisions of Parts 252 and 253 of this chapter shall govern the landing of crewmen as non-immigrants of the class defined in section 101(a)(15)(D) of the act.

(e) *Traders and investors.* The initial period of admission of an alien who has a nonimmigrant status under section 101(a)(15)(E) of the Act shall not exceed one year, and such a nonimmigrant may be granted extensions of temporary stay in increments of not more than one year. An alien admitted to the United States under section 3(6) of the Immigration Act of 1924 shall annually on the anniversary date of his original admission, submit Form I-126, for which no fee is required, to the district director having jurisdiction over his residence, and shall not be required to submit Form I-539. A trader or investor and his spouse or child who accompanied or followed to join him, who acquired nonimmigrant status on or after December 24, 1952, under section 101(a)(15)(E)(i) or (ii) of the Act shall apply for an extension of the period of temporary admission on Form I-539, and such trader or investor shall submit together therewith Form I-126, properly executed by him, with such additional documents as are required by that form.

(f) *Students*—(1) *General.* A student seeking admission to the United States under section 101(a)(15)(F)(i) of the Act and his accompanying spouse and minor children shall not be eligible for admission unless he presents Form I-20 properly filled out by himself and the school to which he is destined. The student's spouse and minor children following to join him shall not be eligible for admission into the United States unless they present Form I-20 from the school in which the student is enrolled stating that he is taking a full course of study and noted by the school to indicate the date of expiration of his authorized stay in the United States as

shown on the student's Form I-94. The initial period of admission of an alien who has a nonimmigrant status under section 101(a)(15)(F) of the Act shall not exceed one year. Form I-20 presented by a student returning from a temporary absence may be retained by him and used for any number of reentries within one year of the date of its issuance. A student shall not be eligible to transfer to another school unless he submits a valid Form I-20 completed by that school to the Service office having jurisdiction over the area in which the school which he was last authorized by the Service to attend is located, and the transfer is approved by that office.

(2) *Extension.* A nonimmigrant who has a classification under section 101(a)(15)(F) of the Act may be granted extensions of stay in increments not to exceed one year each if he establishes that he is currently maintaining student status and is able and in good faith intends to continue to maintain such status for the period for which the extension is requested. Form I-538 will be accepted as an application for extension of stay in lieu of Form I-539 when an applicant is concurrently applying for permission to engage in or continue employment and extension of temporary stay. A student's spouse or child shall not be eligible for an extension of stay unless the student is eligible for an extension of stay.

(3) *Employment.* An application by a student for permission to accept or continue employment shall be filed on Form I-538. The applicant shall be notified of the decision, and if the application is denied, of the reasons therefor. No appeal shall lie from the decision of the district director. If a student requests permission to accept part-time employment because of economic necessity, he must establish that the necessity is due to unforeseen circumstances arising subsequent to entry, or subsequent to change to student classification, and an authorized school official must certify that part-time employment will not interfere with the student's ability to carry successfully a full course of study. Permission to accept or continue employment because of economic necessity may be granted in increments of not more than 12 months each. If a student requests permission to accept or continue employment in order to obtain practical training, an authorized school official must certify

that the employment is recommended for that purpose and will provide the student with practical training in his field of study and, upon information and belief, would not be available to the student in the country of his foreign residence. Permission to accept or continue temporary employment to obtain practical training may be granted in increments of not more than six months each for a maximum of not more than 18 months in the aggregate. The application for the first period of practical training shall be submitted to the office of the Service having jurisdiction over the school recommending practical training. Subsequent applications to continue practical training must contain the recommendation of that school and may be submitted to the office of the Service having jurisdiction over the actual place of training. A student enrolled in a college or university having alternate work-study courses as a part of its regular prescribed curriculum may participate in such courses without obtaining a change of status and without filing an application for permission to accept employment; however, such periods of actual employment shall be considered as practical training. If in connection with an alien's acceptance by a school his Form I-20 bears an endorsement stating that he has been offered on-campus employment which will not displace a United States resident, the Service officer admitting the alien on his first application for admission as a nonimmigrant may authorize such employment without requiring an application on Form I-538. An application for permission to engage in or continue on-campus employment after admission to the United States shall be submitted on Form I-538 and may be granted if it bears a certification by an authorized school official that a United States resident will not be displaced. An applicant for permission to engage in on-campus employment is not required to establish economic necessity. Permission to accept such employment shall be valid for the period of time the applicant is permitted to remain in the United States in nonimmigrant student status. On-campus employment pursuant to the terms of a scholarship, fellowship, or assistantship is deemed to be part of the academic program of a student otherwise taking a full course of study, if related thereto, and permission

from the Service to accept such employment shall not be required. Permission which is granted to a student to engage in any employment shall not exceed the date of expiration of his authorized stay and is automatically suspended while a strike or other labor dispute involving a work stoppage or layoff of employees is in progress in the occupation and at the place where the student is employed.

(g) *Representatives to international organizations.* The determination by a consular officer prior to admission and the recognition by the Secretary of State subsequent to admission shall prima facie establish the classification of a nonimmigrant defined in section 101(a) (15) (G) of the Act. The initial period of admission and extensions of stay of an alien defined in section 101(a) (15) (G) (v) of the Act may be authorized in increments not to exceed one year each. Every other alien defined in section 101(a) (15) (G) of the Act shall be admitted for such period of time as he continues to be so recognized by the Secretary of State.

(h) *Temporary employees—(1) Petitions.* An alien defined in section 101 (a) (15) (H) of the Act must be the beneficiary of an approved visa petition filed on Form I-129B. The petition with supporting documents shall be filed by the petitioner with the district director having administrative jurisdiction over the place in the United States where the beneficiary will perform services or receive training. More than one beneficiary may be included in a petition if they will be performing the same type of service or will be receiving the same type of training, will be applying for visas at the same consulate, and will be performing services or receiving training in the same immigration district. If an alien in the United States desires to perform temporary services or training for another petitioner, a new petition on Form I-129B must be submitted, and if the petition is approved, an extension of stay may be granted without requiring the submission of Form I-539. The petitioner need not be a United States resident. The petitioner shall be notified of the decision and, if the petition is denied, of the reasons therefor and of his right to appeal in accordance with the provisions of Part 103 of this chapter.

(2) *Supporting evidence—(i) Petition for alien of distinguished merit and ability.* A petitioner seeking to accord

an alien a classification under section 101(a) (15) (H) (i) of the Act shall annex to the petition documentation, certifications, affidavits, degrees, diplomas, writings, reviews, and any other evidence attesting to the fact that the beneficiary is a person of distinguished merit and ability and that the services the beneficiary is to perform require a person of such merit and ability. School records, diplomas, and similar documentation submitted must reflect periods of attendance, courses of study, and similar pertinent data. Affidavits submitted by present or former employers or recognized experts certifying to the expertise of the beneficiary shall be in sufficient detail to be self-explanatory concerning the beneficiary's experience and ability, and must set forth the manner in which the affiant acquired such information. Copies of any written contracts between the petitioner and beneficiary, or a summary of the verbal contract or agreement under which the beneficiary will be employed if there is no written contract, shall also be annexed to the petition. In adjudicating the petition, the district director shall consider all the evidence submitted, and such other evidence as he may independently require or procure to assist his adjudication. If an adverse decision is proposed, the petitioner shall be notified and invited to inspect and rebut any evidence considered which was not submitted by him. The decision of the district director shall set forth the pertinent facts adduced from the evidence considered and give the specific reasons for the decision in the light of the facts and the relating provisions of section 101(a) (15) (H) (i). A petition seeking to accord an alien entertainer classification under section 101(a) (15) (H) (i) of the Act shall be accompanied by a copy of the written contract or a summary of the verbal contract under which the beneficiary will be employed. In determining whether an alien entertainer may be considered to be of distinguished merit and ability or whether the services to be performed are of an exceptional nature requiring a person of distinguished merit and ability within the meaning of section 101(a) (15) (H) (i) of the Act, the district director shall give consideration but shall not be limited to evidence of the following factors, and where necessary may require the submission of evidence in support of all or any of these factors: Whether the alien has performed and will perform

as a star or featured entertainer, as evidenced by playbills, critical reviews, advertisements, publicity releases, averments by the petitioner, and contracts; the acclaim which the entertainer has achieved, as evidenced by reviews in newspapers, trade journals, and magazines; the reputation of theaters, concert halls, night clubs, and other establishments in which the entertainer has appeared and will appear; the reputation of repertory companies, ballet groups, orchestras, or other productions in which he has performed; the extent and number of commercial successes of his performances, as evidence by such indicia as box office grosses and record sales reported in trade journals and other publications; the salary and other remuneration he has commanded and now commands for his performances, as evidenced by contracts; whether the alien has been the recipient of national, international, or other significant awards for his performances; the opinions of unions, other organizations, and recognized critics or other experts in the field in which the alien is engaged; whether previous petitions filed in behalf of the alien seeking his services in a similar capacity have been properly approved by the Service and, if so, whether there have been any changes in circumstances affecting the alien's classifiability as a person of distinguished merit and ability. When adjudicating a petition to accord classification under section 101 (a) (15) (H) (i) of the Act to an alien entertainer, the district director may consult unions, other organizations, and recognized critics and other experts in the relating entertainment field. Such consultation shall be for the purpose of obtaining the advisory opinion of the organization or person consulted with regard to the qualifications of the alien and the nature of the services to be performed by the alien. The advisory opinion shall be submitted in writing and shall include a detailed recitation of the facts and data considered in rendering the opinion, except that it shall be furnished orally, subject to later confirmation in writing, when requested in a case deemed by the district director to be of an emergent nature; signed by a duly authorized and responsible official of any union or other organization consulted, and submitted to the district director on or before the date fixed by him, which shall not exceed 15 days from

the date on which the opinion was requested.

(ii) *Petition for alien to perform other temporary service or labor.* Either a certification from the Secretary of Labor or his designated representative stating that qualified persons in the United States are not available and that the employment of the beneficiary will not adversely affect the wages and working conditions of workers in the United States similarly employed, or a notice that such a certification cannot be made shall be attached to every nonimmigrant visa petition to accord an alien a classification under section 101(a) (15) (H) (ii) of the Act. When the petitioner seeks the services of more than one beneficiary and all the beneficiaries are not included in a single certification, a separate visa petition must be submitted for the beneficiary or beneficiaries covered in each certification. A certification by the Employment Service of the Territory of Guam will be accepted in lieu of that issued by the Secretary of Labor or his designated representative in connection with a petition for employment of laborers in Guam. If there is attached to the petition a notice from the Secretary of Labor or his designated representative that certification cannot be made, the petitioner shall be permitted to present countervailing evidence that qualified persons in the United States are not available and that the employment policies of the Department of Labor have been observed. All such evidence submitted will be considered in the adjudication of the petition. A statement shall be furnished with the visa petition describing in detail the situation or conditions which make it necessary to bring the alien to the United States, and whether the need is temporary, seasonal, or permanent; if temporary or seasonal, the statement shall indicate whether the situation or conditions are expected to be recurrent.

(iii) *Petition for alien industrial trainee.* In addition to purely industrial establishments an individual, organization, firm or other trainer may petition for industrial trainees on Form I-129B for the purpose of giving instruction or training in agriculture, commerce, finance, government, transportation, and the professions. The source of any remuneration received by an industrial trainee and whether or not any benefit will accrue to the petitioner are not material, but an industrial trainee shall not

be permitted to engage in productive employment if such employment will displace a United States resident. A hospital approved by the American Medical Association for either an internship or residency program may petition to classify as an industrial trainee a medical student who will engage in employment as an extern during his medical school vacation period. There shall be attached to each petition for an industrial trainee a statement describing the type of training to be given, the position or duties for which the beneficiary is to be trained, and whether such training can be obtained outside the United States. There shall be included an explanation as to the need for the trainee to be trained in the United States.

(3) *Admission, employment, and extension.* A beneficiary may apply for admission to the United States only during the period of validity of the petition. The authorized period of a beneficiary's admission shall be governed by the period of established need for his temporary services, or training, but shall not exceed the date of validity of the petition. A nonimmigrant visa petition in a case in which a certification is not submitted shall be valid for not more than 1 year from the date of the petition's approval. If a certification by the Secretary of Labor or his designated representative is attached to a petition to accord an alien a classification under section 101(a) (15) (H) (i) of the Act, the approval of the petition shall not be valid beyond the date to which the certification is valid. When the certification does not set forth a date until which it is valid, the approval of the petition shall not exceed 1 year from the date on which the certification was issued. The approval of any petition is automatically terminated when the petitioner dies, goes out of business, or files a written withdrawal of the petition before the beneficiary arrives in the United States. Approval of the beneficiary's employment or training is automatically suspended while a strike or other labor dispute involving a work stoppage or layoff of employees is in progress in the occupation and at the place the alien is being employed or trained. An extension of stay may be authorized in increments of not more than 12 months each under the same terms and conditions that apply to an admission, except that an applicant for an individual extension on Form I-539 shall not require a new petition to con-

tinue previously authorized temporary employment or training. Form I-129B shall be used when filing an application for a group extension. An alien defined in section 101(a) (15) (H) (i) of the Act shall not be granted an extension which would result in an unbroken stay in the United States for more than three years.

(4) *Special classes.* The services of an entertainer beneficiary shall be restricted to the activity, area, and employer specified in the approved petition. Any engagement not specified in the original petition shall require a new petition. A new petition shall also be required if the entertainer's services are engaged by a new employer or by a new agent or are to be performed in another area, except that a new petition will not be required for the appearance of an alien performer on a bona fide charity show without compensation, provided he is already in the United States pursuant to an approved visa petition. A petition shall not be required for an appearance, interview, or demonstration, without remuneration, by any nonimmigrant alien who is not an entertainer by occupation. A separate petition and fee shall be required for each group of variety entertainers comprising a separate and distinct act.

(i) *Representatives of information media.* The admission of an alien of the class defined in section 101(a) (15) (I) of the Act constitutes an agreement by the alien not to change the information medium or his employer until he obtains permission to do so from the district director having jurisdiction over his residence. The initial period of admission and extensions of stay of such aliens may be authorized in increments not to exceed one year each.

(j) *Exchange aliens.* As used in this chapter the term "exchange alien" means a nonimmigrant alien who was admitted to the United States under section 101(a) (15) (J) of the Act or acquired such status after admission, or who acquired exchange-visitor status under the United States Information and Educational Exchange Act of 1948, as amended. An exchange alien coming to the United States as a participant in a program designated pursuant to section 101(a) (15) (J) of the Act and his accompanying spouse and minor children shall not be eligible for admission unless the participant presents completely executed Form DSP-66. The spouse and minor children following

to join the participant shall not be eligible for admission unless they present a copy of the current Form DSP-66 issued to the participant by his program sponsor properly endorsed by the program sponsor to indicate the date of expiration of the participant's authorized stay in the United States as shown on his Form I-94. The initial period of admission and extensions of stay of an exchange alien, spouse, and minor child may be authorized in increments of not more than 12 months each and shall be limited to the period specified in the Form DSP-66 issued to the principal alien. Applications for extension of stay by an exchange alien shall be made on a current Form DSP-66. The exchange alien may also apply for an extension of stay for his spouse and child by furnishing their names, dates and places of birth, and nationality as an attachment to Form DSP-66, together with their passports and Forms I-94. Form DSP-66 presented by an exchange alien returning from a temporary absence may be retained by such alien and used for any number of reentries during the balance of his previously authorized stay. When applying for an extension of stay, a spouse or child of a participant in a designated exchange program shall be classified under section 101(a)(15)(J) of the Act unless the spouse or child is applying for an extension of stay for a purpose other than to accompany the participant. A spouse or child accompanying a participant shall not be eligible for an extension of stay unless the participant is eligible for an extension of stay. The formal filing with the Service of an application for a waiver of the two-year foreign-residence requirement under § 212.7(c) of this chapter terminates the nonimmigrant status of the exchange alien and his accompanying spouse and child who have been accorded status under section 101(a)(15)(J) of the Act as the accompanying spouse and child of such alien. The accompanying spouse of a participant in a designated exchange program may be granted permission to accept employment in the United States but only if such employment is necessary for the support of the accompanying spouse and accompanying minor children. If the income to be derived from such employment is needed for the support of the participant, employment shall not be authorized. The application for permission to accept employment shall be made to the district

director having jurisdiction over the place where the participant is sojourning temporarily and need not be made in writing.

(k) [Reserved].

(l) *NATO aliens.* The period of admission and extensions of stay of an alien classified as NATO-5 or 6 NATO-7 who is employed by an alien classified as NATO-5 or 6 by 22 CFR 41.12 may be authorized in increments not to exceed one year. All other aliens of the NATO class in 22 CFR 41.12 including an alien classified as NATO-7 who is employed by a NATO-1, 2, 3, or 4, shall be admitted for such period of time as they continue to be entitled to the status prescribed by 22 CFR 41.70.

[23 F.R. 5817, Aug. 1, 1958, as amended at 26 F.R. 12213, Dec. 21, 1961; 29 F.R. 11957, Aug. 21, 1964; 29 F.R. 15253, Nov. 18, 1964; 30 F.R. 533, Jan. 15, 1965; 30 F.R. 572, Jan. 16, 1965; 30 F.R. 1031, Feb. 2, 1965; 30 F.R. 4351, Apr. 3, 1965; 30 F.R. 4532, Apr. 8, 1965; 30 F.R. 8102, June 24, 1965; 30 F.R. 10946, Aug. 24, 1965; 30 F.R. 14526, Nov. 20, 1965; 30 F.R. 14777, Nov. 30, 1965; 31 F.R. 2373, Feb. 4, 1966; 31 F.R. 5948, Apr. 19, 1966; 31 F.R. 6611, May 4, 1966; 31 F.R. 8045, June 8, 1966; 31 F.R. 11744, Sept. 8, 1966; 31 F.R. 12081, Sept. 16, 1966]

#### § 214.3 Petitions for approval of schools.

(a) *Filing of petition.* A school seeking approval for the attendance by non-immigrant students under section 101(a)(15)(F) of the Act shall file petition Form I-17 with the district director having jurisdiction over the place in which the school is located.

(b) *Supporting documents.* A petitioning school or school system owned and operated as a public educational institution or system by the United States or a state or political subdivision thereof shall submit a certification to that effect signed by the appropriate public official who shall certify that he is authorized to do so. A petitioning private or parochial elementary or secondary school system shall submit a certification signed by the appropriate public official who shall certify that he is authorized to do so to the effect that it meets the requirements of the state or local public educational system. Any other petitioning school shall submit a certification by the appropriate licensing, approving, or accrediting official who shall certify that he is authorized to do so to the effect that it is licensed, approved, or accredited. In lieu of such certification a school which is recognized by a state



approving agency as an "educational institution" for study for veterans under the provisions of P.L. 550 (82d Congress) may submit a statement of recognition signed by the appropriate official of the state approving agency who shall certify that he is authorized to do so. A charter shall not be considered a license, approval, or accreditation. Except in connection with a petition submitted by a school or school system owned and operated as a public educational institution or system by the United States or a state or political subdivision thereof, a school catalogue, if one is issued, shall also be submitted with each petition. If not included in the catalogue, or if a catalogue is not issued, the school shall furnish a written statement containing information concerning the: (1) Size of its physical plant; (2) nature of its facilities for study and training; (3) educational, vocational, or professional qualifications of the teaching staff; (4) salaries of the teachers; (5) attendance and scholastic grading policy; (6) amount and character of supervisory and consultative services available to students and trainees; and (7) finances (including a certified copy of accountant's last statement of school's net worth, income, and expenses). If the petitioner is a vocational school, business school, or American institution of research recognized as such by the Attorney General, it must establish that its courses of study are accepted as fulfilling the requirements for the attainment of an educational, professional, or vocational objective, and are not avocational or recreational in character.

(c) *Consultation with United States Office of Education.* The United States Office of Education has been consulted by the Service and has advised that each of the following is considered an established institution of learning or other recognized place of study, is operating a bona fide school, and has the necessary facilities, personnel, and finances to instruct in recognized courses: (1) A school (or school system) owned or operated as a public educational institution by the United States or a State or political subdivision thereof; (2) a school listed in the current United States Office of Education publication, "Accredited Higher Institutions" or "Education Directory, Part 3, Higher Education;" or (3) a secondary school operated by or as part of an institution of higher

learning listed in the current United States Office of Education publication, "Accredited Higher Institutions" or "Education Directory, Part 3, Higher Education." Before a decision is made on a petition filed by any other school, the United States Office of Education shall be consulted by the district director to determine whether the petitioner is an established institution of learning or other recognized place of study, is operating a bona fide school, and has the necessary facilities, personnel, and finances to instruct in recognized courses.

(d) *Interview of petitioner.* An authorized representative of the petitioner shall appear in person before an immigration officer prior to the adjudication of the petition to be interviewed under oath concerning the eligibility of the school for approval. An interview may be waived by the district director if the school is within category (1), (2), or (3) of paragraph (c) of this section.

(e) *Approval of petition.* To be eligible for approval the petitioner must establish that it is a bona fide school, that it is an established institution of learning or other recognized place of study, that it possesses the necessary facilities, personnel, and finances to conduct instruction in recognized courses, and that it is in fact engaged in instruction in those courses. If the petitioner is an institution of higher education and is not within category (1) or (2) of paragraph (c) of this section, it must establish that it confers upon its graduates recognized bachelor, master, doctor, professional, or divinity degrees, or if it does not confer such degrees that its credits have been and are accepted unconditionally by at least three institutions of higher learning within category (1) or (2) of paragraph (c) of this section. If the petitioner is an elementary or secondary school and is not within category (1) or (3) of paragraph (c) of this section, it must establish that attendance at the petitioning institution satisfies the compulsory attendance requirements of the state in which it is located and that the petitioning school qualifies graduates for acceptance by schools of higher educational level within category (1), (2), or (3) of paragraph (c) of this section. Upon approval of a petition, the petitioner shall be notified on Form I-17.

(f) *Denial of petition.* If the petition is denied, the petitioner shall be notified

of the reasons therefor and of his right to appeal in accordance with the provisions of Part 103 of this chapter.

(g) *Reporting requirements.* Each approved school, upon receiving Service notification of arrival in the United States of a nonimmigrant student destined to that school, or Service notification of permission to attend the school, shall submit immediately to the office of the Service having jurisdiction over the area in which the institution is located a report, in writing, if the student fails to register personally at the school within 60 days of the time he was expected to do so. An immediate report shall also be made in the case of each nonimmigrant student who fails to carry a full course of study, fails to attend classes to the extent normally required, or terminates his attendance at the institution. The report shall be made on Form I-20B.

(h) *Review of school approvals.* The district director shall review at least once every 3 years the approval accorded to schools in his district. The review shall be made to determine whether the school meets the eligibility requirements of paragraph (e) of this section and has complied with the reporting requirements of paragraph (g) of this section. Each school whose approval is reviewed may be required to furnish a currently executed Form I-17 as a petition for continuation of approval without fee together with the supporting documents specified in paragraph (b) of this section. The review may include interview of the school's authorized representative and consultation with the United States Office of Education. If upon completion of the review the district director finds that the approval should be continued, he shall so notify the school when Form I-17 was submitted as a petition for continuation of approval; otherwise, he shall institute proceedings to withdraw its approval in accordance with paragraph (j) of this section.

(i) *Advertising.* In any advertisement, catalogue, brochure, pamphlet, literature, or other material hereafter printed or reprinted by or for an approved school, any statement which may appear in such material concerning approval for attendance by nonimmigrant students shall be limited solely to the following: This school is authorized under Federal law to enroll nonimmigrant alien students.

(j) *Withdrawal of approval.* The approval of a school shall be withdrawn if

it is no longer entitled to approval under section 101(a)(15)(F) of the Act, or under this part, for any reason including, but not limited to, the following: (1) Failure to submit reports required by paragraph (g) of this section; (2) issuance of Certificates of Eligibility, Forms I-20, to students lacking scholastic, financial, or language requirements; (3) failure to operate as a bona fide institution of learning; (4) failure to maintain a sound financial condition; (5) failure to employ qualified professional personnel, or (6) failure to maintain proper facilities for instruction. Whenever a district director has reason to believe that an approved school in his district is no longer entitled to approval, he shall send it a notice of intention to withdraw the approval. The notice shall inform the school of the grounds upon which it is intended to withdraw its approval, and also shall inform the school that it may, within 30 days of the date of service of the notice, submit written representations under oath supported by documentary evidence setting forth reasons why the approval should not be withdrawn. After consideration of any representations submitted within such 30-day period, or any authorized extension thereof, the district director at the request of the school or at his own instance may require that an authorized representative of the school appear for interview before an immigration officer. Prior to making his decision, the district director, in his discretion, may consult the United States Office of Education. The school shall be notified in writing of the decision. If the decision is to withdraw the approval previously granted, the school shall be notified of the reasons therefor and of its right to appeal in accordance with the provisions of Part 103 of this chapter.

[30 F.R. 919, Jan. 29, 1965, as amended at 30 F.R. 6480, May 11, 1965]

## PART 221—ADMISSION OF VISITORS OR STUDENTS

### § 221.1 Admission under bond.

The district director having jurisdiction over the intended place of residence of an alien may accept a bond on behalf of an alien defined in section 101(a)(15)(B) or (F) of the Act prior to the issuance of a visa to the alien upon receipt of a request directly from a U.S. consular officer or upon presentation by an interested person of a notification from